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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2013-47**

13 **JOANN BERNICE GONZALEZ**
aka JOANN BERNICE CROCKER and
aka JOANN BERNICE KAPUSCINSKI
40701 Rancho Vista Blvd., Apt. 133
14 Palmdale, CA 93551

A C C U S A T I O N

15 Registered Nurse License No. 294180

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs (Board).

22 2. On or about August 31, 1978, the Board issued Registered Nurse License No. 294180
23 to Joann Bernice Gonzalez aka Joann Bernice Crocker and aka Joann Bernice Kapuscinski
24 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
25 the charges brought herein and will expire on March 31, 2014, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code. . . ."

6. Section 2750 provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

7. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

1 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
2 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
3 Act] or regulations adopted pursuant to it.

4

5 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
6 functions, and duties of a registered nurse, in which event the record of the conviction shall be
7 conclusive evidence thereof. . . ."

8 8. Section 2764 provides that the expiration of a license shall not deprive the Board of
9 jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision
10 imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an
11 expired license at any time within eight (8) years after the expiration.

12 **REGULATORY PROVISION**

13 9. California Code of Regulations, title 16, section 1444 states, in pertinent part:

14 "A conviction or act shall be considered to be substantially related to the qualifications,
15 functions or duties of a registered nurse if to a substantial degree it evidences the present or
16 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
17 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

18

19 "(c) Theft, dishonesty, fraud, or deceit. . . ."

20 **COST RECOVERY**

21 10. Section 125.3 provides that the Board may request the administrative law judge to
22 direct a licensee found to have committed a violation or violations of the licensing act to pay a
23 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Conviction of a Substantially Related Crime)**

26 11. Respondent is subject to disciplinary action under Sections 490 and 2761,
27 subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444,
28 subdivision (c), in that Respondent was convicted of a crime substantially related to the

1 qualifications, functions or duties of a registered nurse which to a substantial degree evidence her
2 present or potential unfitness to practice in a manner consistent with the public health, safety, or
3 welfare, as follows:

4 a. On or about May 21, 2007, after pleading nolo contendere, Respondent was convicted
5 of one interlineated lesser misdemeanor count of violating Penal Code section 148.5(a) [filing a
6 false police report] in the criminal proceeding entitled *The People of the State of California v.*
7 *Joann Bernice Gonzalez* (Super. Ct. Los Angeles County, 2007, No. MA037853). The Court
8 sentenced Respondent to one (1) day jail, and placed her on three (3) years probation. On or
9 about October 19, 2009, the Court dismissed the action pursuant to Penal Code section 1203.4.

10 b. The circumstances underlying the conviction are that on or about February 23-25,
11 2007, Respondent hired a man to do some body work on her car for \$200, and gave him \$100 and
12 the vehicle's keys to take the car and make the repairs. On or about February 28, 2007,
13 Respondent filed a stolen vehicle report with the Los Angeles Sheriffs, falsely reporting the theft
14 of her vehicle, a 1997 Dodge Ram pickup truck, and failing to disclose that she gave her vehicle
15 to R.K.H. with her permission, so that he could perform repairs on the vehicle. On or about
16 March 1, 2007, Respondent's vehicle was found with the interior door panel in the rear seat, and
17 several sheets of sandpaper and painters tape normally used in auto body repair work inside the
18 vehicle. On or about March 1, 2007, Respondent was arrested and charged with a felony
19 violation of Penal Code section 118, subdivision (a) [perjury].

20 **DISCIPLINARY CONSIDERATIONS**

21 12. On or about December 14, 1999, after pleading guilty, Respondent was convicted
22 of two misdemeanor counts, Count 2, violating Penal Code section 459 [burglary] and Count 3,
23 violating Penal Code section 484(g) [fraudulent use of access card] in the criminal proceeding
24 entitled *The People of the State of California v. Joann Bernice Gonzalez* (Super. Ct. Ventura
25 County, 1999, No. 99C011079MA). The Court sentenced Respondent to one (1) day jail, placed
26 her on 36 months probation, and ordered her to complete 160 hours in the Direct Work Program.
27 On or about June 7, 2001, the Court dismissed both counts pursuant to Penal Code
28 section 1203.4.

1 a. The circumstances underlying the conviction are that on or about November 21,
2 1999, Respondent admitted to finding L.S.'s lost wallet at the Thousand Oaks Mall on or about
3 November 20, 1999 and, after finding L.S.'s wallet, she stole L.S.'s credit card to make three (3)
4 purchases at the Mall. The next day, on or about November 21, 1999, Respondent admitted that
5 she excitedly wanted to once again use L.S.'s stolen credit cards, went to a Good Guys store,
6 ordered a home theater system valued at about \$11,000.00, and attempted to pay for this
7 merchandise with a stolen Discover credit card, which was declined as being stolen. On or about
8 November 21, 1999, Respondent was stopped in a vehicle matching the description of the theft
9 suspect fleeing from the Good Guys, and they found a wallet in her vehicle containing
10 approximately 12 credit cards and department store cards. After initially lying to police and
11 claiming she had not stopped at the Good Guys, she admitted she had been at the store and tried
12 to purchase a home theater system with someone else's credit card she had found and had also
13 used credit cards in the wallet to purchase merchandise and jewelry at other stores in the
14 Thousand Oaks Mall. Respondent was arrested by the police.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct / Violate Act)**

17 13. Respondent is subject to disciplinary action under Section 2761, subdivision (a) and /
18 or (d), in that Respondent committed acts of unprofessional conduct, and/or acts violating the
19 Nursing Practice Act. Complainant refers to and by this reference incorporates the allegations set
20 forth above in Paragraph 11, subparagraphs a and b, and Paragraph 12, subparagraph a, inclusive,
21 as though set forth fully.

22 **PRAYER**

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
24 and that following the hearing, the Board issue a decision:

25 1. Revoking or suspending Registered Nurse License No. 294180, issued to Joann
26 Bernice Gonzalez aka Joann Bernice Crocker aka Joann Bernice Kapuscinski;

27 2. Ordering Joann Bernice Gonzalez to pay the Board the reasonable costs of the
28 investigation and enforcement of this case, pursuant to section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED:

July 17, 2012

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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